

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**SHULAR CONTRACTING, INC. AND
MICHAEL L. SHULAR**

PLAINTIFFS

V.

CIVIL ACTION NO. 1:09CV206LGRHW

**GULF CONCRETE, LLC AS SUCCESSOR
BY MERGER WITH BAYOU CONCRETE, INC.**

DEFENDANT

MOTION FOR EXTENSION OF TIME TO DESIGNATE EXPERTS

NOW INTO COURT, through undersigned counsel, comes Michael L. Shular who moves the Court for leave to extend the time to designate expert witnesses by 30 days from and after any Order that may issue granting his motion. In support thereof, Michael L. Shular shows as follows:

1. Michael L. Shular is the sole proprietor of the Holiday Inn located on Highway 49 in Gulfport, Mississippi, just south of Interstate 10. His cause of action against the Defendant is based upon the Defendant providing defective concrete which had to be removed and replaced, causing his hotel a 72-day loss of net operating income.

2. At the Case Management Conference on June 18, 2009, the Magistrate Judge ordered the parties to mediation. The parties immediately agreed upon Raymond Hunter as mediator and quickly scheduled the mediation, although it could not be conducted by Mr. Hunter until August 11, 2009.

3. In view of the impending mediation and the reasonable expectation that this case would settle through mediation, Michael L. Shular did not designate an expert witness.

4. The mediation conducted on August 11, 2009, lasted more than 10 hours and during that entire period no settlement offer was communicated by the Defendant to either Plaintiff, although both Plaintiffs had provided detailed damages calculations to the Defendant in advance of the mediation.

5. Given the unsuccessful mediation and that no offer was communicated from the Defendant, Michael L. Shular now desires to designate an expert witness.

6. This case is set for trial during a 3-week period beginning May 10, 2010. Granting this motion will not delay the trial of this cause.

WHEREFORE, Michael L. Shular respectfully prays that the Court will extend by 30 days from the date of any Order granting this motion the time in which he must designate expert witnesses, with the Defendant's time for designating expert witnesses 30 days thereafter.

Respectfully submitted,

SHULAR CONTRACTING, INC. AND
MICHAEL L. SHULAR

BY: /s/ Ron A. Yarbrough
Ron A. Yarbrough, MSB # 6330

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Mr. Richard W. Franklin

Armbrecht Jackson, LLP

1300 Riverview Plaza

63 S. Royal Street

Mobile, Alabama 36602

This the 17th day of August, 2009.

/s/ Ron A. Yarbrough

RON A. YARBROUGH, MSB# 6330